UNITED
NATIONS

CRC

Convention on the
Rights of the Child

Distr.
GENERAL

CRC/C/SR.326
28 November 1996

ENGLISH
Original: FRENCH

COMMITTEE ON THE RIGHTS OF THE CHILD

Thirteenth session

SUMMARY RECORD OF THE 326th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 30 September 1996, at 3 p.m.

Chairperson: Mrs. BELEMBAOGO

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GE.96-18414 (E)

The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4) (continued)

Initial report of Uruguay (continued) (HRI/CORE/1/Add.9; CRC/C/3/Add.37; CRC/C/Q/URU.1 (List of issues); written replies by the Uruguayan Government - document without symbol, English only)

1. At the invitation of the CHAIRPERSON, the members of the Uruguayan delegation resumed their place at the Committee table.

2. The CHAIRPERSON invited the members of the Uruguayan delegation to reply to the issues raised by the members of the Committee during the previous meeting.

3. Mr. BONASSO (Uruguay) noted that, since Uruguay was a small country with scant resources and surrounded by powerful neighbours, it was difficult to achieve economic equilibrium. The country's main asset was its human resources, which the Government was determined to preserve, particularly by promoting the development of children.

4. Mrs. FERNÁNDEZ (Uruguay) listed the various measures taken to implement the principles embodied in the Convention. She mentioned in particular the new cooperation programme between Uruguay and UNICEF centring on implementation of the Convention on the Rights of the Child, and the plan regarding family day-care centres, which was also supported by UNICEF. Such centres were administered by society at large through associations. Of particular importance were the activities of the first professional assistance service, an innovation that was designed to provide assistance to victims of domestic violence or abuse. Cooperation with UNICEF was being reprogrammed in order to ensure coverage of all aspects of the Convention. Proposals for action in all spheres, particularly the training of judges, assistance to street children, and also child prostitution, were submitted directly to the Commission responsible for drafting the new Children's Code. Work undertaken together with UNICEF was intended to lay the groundwork for a methodology for disseminating information about the Convention, for creating an information system to monitor measures taken in that context, and for implementing measures aimed at increasing public awareness. She gave a number of examples, which included parliamentary action on behalf of children, and a competition organized by the Supreme Court to ascertain children's opinion of the Convention, which demonstrated that action was in fact being taken at all levels.

5. Mr. BONASSO (Uruguay) acknowledged that dissemination of information about the Convention had not yet had the desired impact, but noted that projects were under way to incorporate teaching of the rights of the child into the curricula of national institutions and schools. He described how the system of child protection in Uruguay functioned and explained that, within central Government, the National Minors' Institute (INAME) enjoyed full decision-making and executive powers for protecting children experiencing moral or material neglect, preventing anti-social behaviour of minors and protecting disabled children, as well as for promoting children's physical and moral development. In addition, INAME had a labour inspection department

responsible for monitoring compliance with the relevant international commitments assumed by Uruguay, and for inspecting the working conditions of minors in enterprises. INAME was therefore the main body responsible for promoting the social integration of young people. He expressed strong support for non-profit-making organizations defending children's interests, and emphasized that never before had public funds been allocated to civil associations to be administered directly by them. The State's firm political will in that connection was further demonstrated by the existence of the "social cabinet" comprising ministers and representatives of the Supreme Court, and by the activities of the Social Policies Division of the Office of the Planning and Budget (OPP) which was responsible in particular for gathering information to serve as a basis for drafting programmes. In addition, the child protection system emphasized a number of priorities, particularly in respect of infancy, primary education and children's clubs. Uruguay's 120 family day-care centres (CAIF), located throughout the country, catered to 7,300 underprivileged children between the ages of two and five.

6. He added that, in keeping with the Convention, INAME's policy genuinely sought to make imprisonment and placement in an institution a measure of last resort. In addition, all children monitored by INAME should be able to become integrated in society through personalized, flexible and outward-looking education. INAME also had a training school for all officials dealing with minors. It also cooperated with UNICEF and university circles in publicizing its activities through inter-active programmes, which were reported in the media. Moreover, the most recent budget legislation required television channels to broadcast, at prime times, campaigns launched by INAME and other bodies to promote the rights of the child.

7. Mrs. IZQUIERDO (Uruguay) stated that although Uruguayan institutions did not provide for the post of ombudsman, two projects had been submitted for introduction of an ombudsman system - one by the Vice-President to the Chamber of Representatives and the other by local authorities. The idea was to create an arrangement that facilitated access to mediation procedures for all segments of the population, particularly for the elderly and children.

8. Mr. BONASSO (Uruguay) said that the obstacles to the adoption of a new Children's Code lay with the Uruguayans themselves. The fact that Uruguayan society was highly politicized sometimes hampered the decision-making process, and explained the delay in approving the draft submitted in 1994. Although it was certainly desirable that more prompt and effective child protection procedures should be established, no consensus had yet been reached on that point. However, the Government was working with the judiciary to speed up reforms intended, specifically, to make abandoned children the responsibility of an appropriate administrative body and prohibit legal proceedings against children of under 12 years of age. He acknowledged that the situation regarding the matter of informing children of their rights was not yet ideal, particularly on account of persisting cultural or historical obstacles, but said that specific measures were already being taken to ensure that children were able fully to exercise their rights.

9. Mrs. FERNANDEZ (Uruguay) reverted to the matter of NGO participation to emphasize that there were family day-care centres (CAIF) throughout the country, thereby ensuring direct access to disadvantaged persons. That was an important arrangement in that it promoted decentralization and contacts with society at large.

10. Mr. BONASSO (Uruguay) said the fact that the State was working with society in providing assistance to children did not mean that it was shirking its responsibilities. He added that the recently-created family day-care centres were allocated their own budgets by the State and were responsible for their administration. The National Minors' Institute (INAMA) for example, had a budget of US$ 80 million, which was larger than that of the Office of the President of the Republic, the diplomatic service or the legislature. The family day-care centres received support from the Ministry of Public Health and the national food Institute, which was subordinate to the Ministry of Labour and Social Security and implemented prevention-oriented food aid programmes. In order to qualify for food aid, for example, pregnant women were required to furnish proof that they were having medical check-ups. Consequently, more women were getting pre-natal check-ups and the number of underweight newborn babies was declining. The centres were funded by the National Minors' Institute, but also received assistance from the National Women's Institute and the National State Education Authority.

11. The law adopted in 1995 under which offenders below the age of 18 should be separated from adults in detention centres had not been applied in practice. Under that law, the National Minors' Institute was required to inform the Supreme Court of Justice whether it was in a position to place young offenders. The Institute had premises and workshops for teaching such persons a trade, and all possible steps were taken to prevent the incarceration of young offenders with adults. Of the 20,000 young people for whom the Institute was responsible, 120 were in prison. That proportion had varied little over the previous 10 years. Moreover, since 1989, the Institute had had access to data in the possession of the Service for Information on Children that had been established in cooperation with the Inter-American Children's Institute.

12. Lastly, referring to the draft code that was to replace the Children's Code dating from 1934, he said that the political will of the State must prevail, regardless of changes of government.

13. The CHAIRPERSON thanked Mr. Bonasso for his detailed replies, emphasized the desirability of speeding up the process of adopting the draft children's code, and hoped that the Government would find the Committee's suggestions and observations useful in that connection. Dissemination of information about the Convention among children and adults must be a permanent process, which implied that the study of the instrument should be included in all school, university and vocational training programmes, and that the Convention itself should be brought to the attention of persons responsible for protecting children and dealing with young offenders.

14. The CHAIRPERSON invited the members of the Committee to move on to the list of issues to be taken up (CRC/C/Q/URU.1) regarding the definition of the child and general principles.

15. Mrs. SARDENBERG shared the hope that the draft children's code would be adopted expeditiously, and considered that the Committee's conclusions on the implementation of the Convention would be useful in drawing up the final draft. She suggested that the National Minors' Institute should promote debate in society regarding the Convention and that the Government should adopt measures reflecting a priority concern for children. UNICEF, the Inter-American Children's Institute and other United Nations specialized agencies, which had programmes intended to further international cooperation, could make a useful contribution in that connection.

16. She requested clarification of the discrimination to which children, as a social group might be subject, in view of the fact that they were sometimes regarded as a threat to society rather than as partners in building the future. Did the Uruguayan educational system offer means enabling children to participate in drawing up work and study methods and school programmes?

17. Mrs. SANTOS PAIS, referring to the definition of the child, expressed concern that a legislative reform should provide for the incarceration of children, even in separate premises, in prisons for adults. She requested further information about the 1995 Law which took precedence over certain provisions of the Children's Code of 1934, and which authorized the use of special procedures for children who had committed serious offences, and who might consequently be imprisoned. If it was accepted that a child under 16 years of age could be imprisoned, even if only in exceptional circumstances how was it possible to guarantee application of legislation setting a higher age of minority for criminal purposes? Might that not encourage some judges to interpret the law to the detriment of children?

18. She noted that the age of consent was fixed at 14 years for boys and 12 years for girls in Uruguay, but pointed out that the Convention did not countenance a distinction of that nature. What measures was the Government taking to correct the situation? Such action was particularly important in Uruguay since mothers played a fundamental role and it was they who bore the brunt of unemployment, separation, divorces and remarriages, and on account of the high proportion of teenage mothers.

19. She emphasized that, according to ILO Convention No. 138 and in the spirit of the Convention on the Rights of the Child, it was inadmissible for the child under 15 years of age to work. Children should be at school and not working because the under-qualified would always be the first victims of unemployment. Moreover, the report revealed that some children were authorized to work at the age of 12 to assist their parents, brothers or sisters. Was the prevailing interest in such cases that of the child or that of the family?

20. On the subject of general principles, she asked what measures had been taken, or were planned, to place all children, and particularly teenage expectant mothers, on an equal footing in terms of education, and to prevent any discrimination against children born out of wedlock. For example, did birth certificates omit reference to the condition of natural children in order to ensure that they were not stigmatized.

21. Mr. KOLOSOV stressed that, in countries with a small population and low birth rate, it was normal practice to place young offenders in detention centres for adults. He considered, however, that a contradiction existed in the case of Uruguay where majority was attained at the age of 21, while the provisions of the Convention considered a person to be a child only until the age of 18. It therefore appeared necessary, in Uruguay, to afford the protection of the Convention to young persons up to the age of 21. In that connection, he requested more specific information on the ages of the 120 children currently in prison in Uruguay, and suggested that the time had come either to lower the age of legal majority to 18 or to ensure that the rights of children of under 21 were respected. He further considered that, in Uruguay, Children should be considered not as subjects of the rights of the child, but as persons who had duties, as though they were adults. Consequently, he had the impression that large groups of children were, in a sense, deprived of their childhood.

22. Mr. HAMMARBERG requested further information regarding the situation of children belonging to the black minority. It was not enough for the delegation to state that such children had the same rights as all Uruguayan children; specific measures were required to improve their situation. He welcomed the comprehensive education policy introduced in Uruguay which sought to provide access for all children, including the handicapped, to normal schooling, and requested further information on the pilot projects being carried out, and particularly those for handicapped children. He further emphasized that the authorities should study the possible repercussions on children of the economic measures they planned to implement - a point to which UNICEF attached particular importance. He asked what measures had been taken to promote the participation of children at schools not only in educational but also in administrative and disciplinary matters.

23. Mrs. BADRAN emphasized the importance of the age of marriage, since early marriage was not only contrary to the rights of the child, particularly girls, but also to those of the future baby which would in many cases be born with abnormalities. She considered that the matter was also connected with education, in that virtually all girls left school between the primary and secondary levels in order to get married. It was necessary not only to review legislation, but also to offer counselling to pupils in primary schools in order to encourage them to continue their schooling. She asked whether social workers were present in schools for that purpose.

24. Miss MASON inquired whether it would be possible to issue an addendum to Uruguay's report, devoted to the situation of black children. She believed that discrimination did exist, even if it was not recognized by the authorities, and therefore wished to know whether any studies had been made of the situation of the black population in general (education, health, integration, representation, etc.). She noted that the Uruguayan delegation had answered all the questions raised regarding section 9 of the list of issues (CRC/C/Q/UIU.1), with the exception of issues relating to racial minorities.

25. Mrs. KARP, referring to the question of eliminating discrimination, requested clarification of the specific measures adopted and the resources allocated to reduce existing disparities between the capital and the interior of the country in respect of access to services. Regarding participation, she

asked whether the authorities complied fully with the Convention's requirement that the opinion of the child should be taken into account when the attention of case workers was drawn to the principle of the child's best interests.

26. The CHAIRPERSON invited the Uruguayan delegation to answer the questions raised regarding measures taken to ensure real protection of the child, in relation to his age, and in accordance with the various categories of children taken into consideration.

The meeting was suspended at 16.45 p.m. and resumed at 16.50 p.m.

27. Mrs. IZQUIERDO (Uruguay) stated that the Convention was not yet taught as part of the school curriculum, but that proposals to that end, supported by UNICEF, had been submitted. Regarding the definition of the child, she explained that the full legal age had been 21 before a Law of October 1995 had lowered the age of legal capacity to 18. As for the State's obligation to protect the rights of the child, she said that the new draft Children's Code, the text of which was based on the provisions of the Convention, devoted a chapter specifically to the rights of the child and to the duties of parents and of the State.

28. Referring to the question of the age of criminal responsibility, she explained that minors were brought before special courts that imposed disciplinary measures rather than punishment. Before the Convention had been adopted, the imprisonment (detention) of minors had been current practice. In 1994 the Supreme Court had elaborated the special rules and procedures applicable to minors, as well as the progressive penalties (including detention, but only as a last resort) to be imposed by children's judges. The draft Code provided for application of a series of "protective measures" of an educational nature, the most severe being detention for a maximum period of five years. The child was entitled to the services of a lawyer; failure to comply with this requirement rendered the proceedings null and void.

29. The Civil Code made a distinction between boys and girls who were permitted to marry, subject to parental consent, at the age of 14 and 12 respectively. The problem of early pregnancies was a priority not only from a health but also educational standpoint. The Ministry of Public Health, in cooperation with UNICEF, had published children's health guides for educators and teachers, dealing in particular with infection by the AIDS virus and early pregnancy.

30. The draft Children's Code fixed the minimum working age at 15, in line with international standards. It also eliminated any distinction, as established in the Declaration of the Rights of the Child, regarding children born out of wedlock. All children therefore had the right to protection, to be acknowledged by their father (even if born out of wedlock), and to be informed of the identity of their parents.

31. The legislation in force contained no discriminatory provisions against the black population, nor did racial conflict exist. However, the State recognized the need for official statistics to assess the situation of the black population, and had undertaken to gather data in cooperation with interested NGOs.

32. The pilot project aimed at the integration of handicapped children in ordinary schools had not produced the desired results in the view of teachers. The project would not, however, be dropped, but would be reviewed and modified on the basis of experience.

33. The principle of the best interests of the child, embodied in the Children's Code of 1934, had so far been interpreted by adults who did not take the opinion of the child into due consideration, or failed to consider it in the context of certain administrative procedures. The new draft Code stated that the opinion of the child must be taken into account in all procedures, and that he must be provided with an explanation of any decision affecting his life.

34. On the subject of specific measures taken to eliminate disparities between the capital and rural areas, she stated that the departmental authorities enjoyed financial autonomy, and that their financial resources were frequently greater than those of the Montevideo authorities, to the extent that in education, for example, scholastic performance was better in rural areas than in the capital. Health programmes dealing with specific problems were implemented in the interior by the Ministry of Health, in cooperation with the departmental authorities and professional medical organizations.

35. The CHAIRPERSON reminded the delegation that two other issues had been raised, one regarding the existence of social services in schools to counsel pupils, and the other concerning specific programmes to protect children who had been sexually abused.

36. Mrs. IZQUIERDO (Uruguay) replied that a programme to help victims of domestic violence, both children and women, had been launched in 1990. The programme was based on contacts established by NGOs in hospitals, providing for the possibility of mediation between aggressors and their victims, and on the cooperation of teachers in identifying cases of domestic violence. It was regrettable that it had not yet been possible to establish the children's SOS service.

37. Mr. BONASSO (Uruguay) added that Uruguay had a body of highly-qualified social workers who were present in all the country schools to deal with problems faced by children within the school system, such as absenteeism and dropping out, with emphasis on relations between the child and the family environment, the community, civil organizations and social clubs. The National Minors' Institute also had a large number of social workers on its staff and likewise gave priority to the protection of the family environment.

38. The CHAIRPERSON said that, to facilitate proceedings, members of the Committee could not only comment on the replies of the Uruguay delegation, but also raise other issues such as freedom and civil rights, the family environment and safeguards in connection with alternative care.

39. Mrs. SANTOS PAIS said that the Committee had noted with considerable interest that a number of provisions of the Convention had been used in the Draft Children's Code under examination. However, the Committee was mainly interested in the practical application of the Convention since its ratification by Uruguay. In that connection, she noted with concern that

certain measures, such as the so-called protective measures of an educational nature, appeared to be more in the nature of a form of deprivation of liberty, which was contrary to the provisions of the Convention. She also noted that, although a child under 18 years of age was not criminally responsible under the law, a minor of 16 could be placed in a high security establishment that had no specific educational or reintegration function. Did that not reflect a contradiction between legislation and practice? In her view a cause and effect relationship appeared to exist between the situation of children in difficulty and the general socio-economic circumstances of their families.

40. As for the marriageable age of minors, she considered that the legal provision requiring parental consent was not sufficient. In her view, the legislative authorities should fix a minimum age at which young people might contract marriage offering a reasonable chance of success in conjugal and family life.

41. Regarding access to employment, there seemed to be a discrepancy between the ILO Convention, which had been ratified but not effectively applied by Uruguay and Uruguayan legislation which permitted the employment of children from the age of 14, and even 12 in some cases. In addition, the fact that a child born to under-age parents could not be acknowledged appeared to be at variance with article 7 that embodied the child's right to a name, to know the identity of his parents and, above all, to an identity.

42. She would appreciate further information on Uruguay's adoption procedure which seemed to imply a total severance of links with the biological parents. She also asked whether the legislation in force prohibited torture and other cruel, inhuman or degrading treatment or punishment. Finally, it was her understanding that a decree of 1970 permitted the wholesale detention of young people caught in flagrante delicto for identity checks. Might that provision not jeopardize the right of young persons to freedom of association?

43. Mrs. SARDENBERG pointed out that adoption of the draft Children's Code would not automatically guarantee its application. The Government should therefore take specific measures without delay to deal with a number of particularly worrying problems faced by children in difficulty (children in conflict with the law, children living in poverty and children in an irregular situation). She was particularly concerned by social discrimination against black children, who were denied the possibility of social advancement and access to public services, and against the black community as a whole, which was not represented in academic, administrative or political institutions. That situation, too, called for appropriate political, economic and social action.

44. She shared the concern expressed by Mrs. Santos País regarding discrimination against young persons who could collectively be placed in detention under a decree of 1970. Such measures appeared to originate in a perception of young persons as a threat and not as a group contributing to construction of the future.

45. She asked what measures the State intended to take to resolve the problem of children who had disappeared under the dictatorship, who had subsequently been found, but whose identity was not known. She asked what

would be done about the thousands of adopted children whose links with their biological families had been severed in accordance with the legislation in force prior to ratification of the Convention.

46. Mr. HAMMARBERG said that, in order to protect the best interests of the child, the impact of all government decisions on children should be taken into account. The best interest of the child should be understood in the broadest sense and not simply in the legal or social context. To that end, appropriate mechanisms were necessary to ensure that the best interests of the child were considered in allocating public resources.

47. He welcomed the action taken by the Uruguayan authorities to combat the maltreatment of children. He urged them to place greater emphasis on prevention than cure, and to focus their preventive activities on men since it appeared that they were the ones primarily responsible for the maltreatment experienced by children within the home. It was to be hoped that the SOS service for children would soon be operational.

48. He drew the Uruguayan delegation's attention to the fact that article 17 of the Convention dealt not only with use of the media to disseminate information about the Convention, but also with protecting children against the harmful influence of the media and of video recordings (violence and pornography). He requested details of Uruguay's policy in that connection.

49. Mr. KOLOSOV was concerned to note that the Uruguayan authorities appeared to regard street children as a threat to society, and that the media did not hesitate to divulge the identity of young offenders. He inquired whether the draft Children's Code contained provisions designed to remedy that situation.

50. Mrs. KARP asked to what extent legal provisions regarding the protection of children's right to private life were applied, and asked the Uruguayan delegation for specific examples of cases in which courts had imposed penalties for the infringement of that right. Were the activities of the Victims' Monitoring Centre confined to Montevideo, or did they cover the entire country?

51. She asked whether any arrangements had been made in Uruguay to look after street children above school-leaving age. What was the minimum age at which children could give evidence in court, and what weight was attached to their evidence when it contradicted their parents' statements, particularly in cases involving domestic violence. Was there an age limit at which the consent of children was required before they underwent medical examinations or received medical treatment? She also asked what rules were applied in cases of teenage pregnancy, and what provisions governed abortion in such cases.

52. Miss MASON was concerned by the specific manner in which the best interests of the child were protected in various contexts. She wished to know how the authorities guaranteed respect for the best interests of the child in cases of adoption while at the same time considering the interests of the parents. Referring to paragraph 180 of the report, she wondered why the Uruguayan authorities considered that the confidential nature of the adoption procedure helped to protect the best interests of the child.

53. She also noted that Uruguay lacked rules governing international adoption and that apparently the desires of adults were given greater weight than those of children. She also noted that children above a certain age were unlikely to be adopted and were almost automatically placed in an institution. How did the Uruguayan authorities protect the best interests of the child in those circumstances?

54. Mrs. BADRAN was particularly concerned by the breakdown of the family unit which was reflected, for instance, in the fact that only some 25 per cent of children were born legitimately and lived with their parents. She also noted that cohabitation was increasing, to an extent that raised doubts concerning the effectiveness of Uruguay's well-developed social action system. Surely the best interests of the child called for a re-examination of the situation with a view to solving the problems confronting the Uruguayan family.

55. The CHAIRPERSON thanked the Uruguayan delegation for its replies to the Committee's questions.

The meeting rose at 6 p.m.